

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

CLARENCE OTWORTH,
In his individual capacity,

Plaintiff,

Case No. 1:20-cv-886
Hon. Paul L. Maloney

v.

TONY MOULATSIOTIS,
In his official capacity,
LISA SWANSON,
In her individual capacity,

Defendants.

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REPLY OF DEFENDANT MOULATSIOTIS TO
“PLAINTIFF’S RESPONSE TO ALLAN C. VANDER LAAN
(P33893) MOTION TO DISMISS FOR DEFENDANT TONY MOULATSIOTIS”
(ECF NO. 13)

INDEX OF AUTHORITIES

Cases

<i>Cox v. Curtin</i> , 698 F. Supp. 2d 919 (W.D. Mich. 2010).....	1
<i>Feathers v. Chevron U.S.A., Inc.</i> , 141 F.3d 264 (6 th Cir. 1998)	2
<i>Little Traverse Lake Property Owners Ass’n v. National Park Service</i> , 223 F. Supp. 3d 691 (W.D. 2016)	1
<i>McPherson v. Kelsey</i> , 125 F.3d 989 (6 th Cir. 1997)	1
<i>Otworth v. Budnick</i> , 594 Fed. Appx. 859 (6 th Cir. 2014)	1
<i>Troph v. Fidelity National Title Ins. Co.</i> , 289 F.3d 929 (6 th Cir. 2002)	2

ARGUMENT IN REPLY

Plaintiff Otworth's "response" (**ECF No. 13**) to the pending dismissal motion filed by Defendant Moulatsiotis (**ECF Nos. 8, 8-1, PageID.49-66**) is nothing more than a regurgitation of Otworth's baseless assertions that Moulatsiotis (as Muskegon County Treasurer) cannot collect property taxes from Otworth due to the supposed lack of incorporation on the part of the Village of Lakewood Club. As described in the motion by Moulatsiotis, this issue was dispositively resolved against Otworth in ***Otworth v. Budnick***, 594 Fed. Appx. 859, 862 (6th Cir. 2014).

This Court should take note that the preclusive effect of the ***Budnick*** decision against Otworth was just affirmed by the United States Court of Appeals for the Sixth Circuit with regard to this Court's dismissal of Otworth's two most recent prior actions (Case Nos. 1:19-cv-55 and 1:19-cv-621). (**Ex A: 6th Circuit Order, *Otworth v. Fifth Third Bank, et al.*, 6th Cir. Case No. 20-1286; Ex B: 6th Circuit Order, *Otworth v. Moulatsiotis, et al.*, 6th Cir. Case No. 20-1303**).

Moreover, Otworth fails to offer any citation to authority for his response, with the consequence that any opposition by Otworth to the motion of Moulatsiotis is waived. ***McPherson v. Kelsey***, 125 F.3d 989, 995-6 (6th Cir. 1997), ***Little Traverse Lake Property Owners Ass'n v. National Park Service***, 223 F. Supp. 3d 691, 696 (W.D. 2016), ***Cox v. Curtin***, 698 F. Supp. 2d 919, 949-50 (W.D. Mich. 2010). Plaintiff Otworth cannot oppose the motion of Moulatsiotis simply by accusing counsel of being "*Stupid! Stupid! Stupid!*" (**ECF No. 13, PageID.192, Plaintiff's Response, p. 1**).

Although Plaintiff Otworth's "response" does not provide any rebuttal to the motion of Defendant Moulatsiotis, it does demonstrate (yet again) why it is appropriate for this

Court to enter an order requiring pre-filing review of any future Complaints submitted by Plaintiff Otworth to the clerk. Defendant Moulatsiotis again asks the Court to do so.

Feathers v. Chevron U.S.A., Inc., 141 F.3d 264, 269 (6th Cir. 1998), ***Tropf v. Fidelity National Title Ins. Co.***, 289 F.3d 929, 940 (6th Cir. 2002).

CONCLUSION AND REITERATION OF RELIEF REQUESTED

Defendant Tony Moulatsiotis asks this Court to grant his motion seeking the dismissal of Plaintiff Otworth's Complaint. Moulatsiotis also reiterates his request that this Court enter a pre-filing screening order against Plaintiff Otworth.

Respectfully submitted,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.

Dated: October 30, 2020

/s/ Allan C. Vander Laan
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CERTIFICATE OF COMPLIANCE

Defendant, Tony Moulatsiotis, in compliance with LCivR 7.2(b)(i), used 377 words in his Reply to "*Plaintiff's Response to Allan C. Vander Laan (P33893) Motion to Dismiss for Defendant Tony Moulatsiotis*" (ECF No. 13). Microsoft Word 2013 (Official Microsoft Version Number is 15.0.5031.1000) is the word processing software used to generate the word count in the attached brief.

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2020, I electronically filed the with the Clerk of the Court, Reply of Defendant Moulatsiotis to "*Plaintiff's Response to Allan C. Vander Laan (P33893) Motion to Dismiss for Defendant Tony Moulatsiotis*" (ECF No. 13) using the ECF system which will send notification of such filing to all counsel of record.

I hereby certify that I have mailed by United States Postal Service the same to the following non-ECF participants:

Clarence Otworth
187 East Daniels Rd.
Twin Lake MI 49457

/s/ Allan C. Vander Laan
Allan C. Vander Laan